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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,798	03/12/2004	Klaus Joos	10191/3581	8304
26646	7590	06/16/2005	EXAMINER	
KENYON & KENYON ONE BROADWAY NEW YORK, NY 10004			GIMIE, MAHMOUD	
			ART UNIT	PAPER NUMBER
			3747	
DATE MAILED: 06/16/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/799,798

Applicant(s)

JOOS ET AL.

Examiner

Mahmoud Gimie

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 15-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 15-17 is/are rejected.
- 7) ☒ Claim(s) 7-13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-6 and 15-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Rueger et al (6,619,268)

The applied reference has a common -"Robert Bosch GmbH"- with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Rueger et al discloses a method for operating an internal combustion engine, comprising: injecting a fuel into a combustion chamber via an injector that includes a

drivable piezo-actuator (2010); generating a setpoint value for driving the piezo-actuator, determining a setpoint charge quantity (electric charge) from the setpoint value, determining an actual charge (electrical charge) quantity supplied to the piezo-actuator; combining (comparing) the setpoint charge quantity and the actual charge quantity to produce a combined result (an output); and causing the combined result to act upon a drive circuit of the piezo-actuator, see column 16 and lines 13-48.

With regard to claim 2, the invention further comprising: determining a current for driving the piezo-actuator from the setpoint charge quantity and causing the combined result to act upon the current.

With regard to claim 3, the invention further comprising: applying the setpoint charge quantity to a preset activation time.

With regard to claim 4, the invention further comprising: determining the actual charge quantity at an end of the preset activation time.

With regard to claim 5, the invention further comprising causing a PI controller to influence the combined result

With regard to claim 6, wherein the method is used to open the injector.

With regard to claims 15-17, see above rejections and figures 1-11.

***Allowable Subject Matter***

3. Claims 7-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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4. The primary reason for allowance of claims 7-13 is the inclusion of the limitations of "determining the actual voltage present at the piezo-actuator; combining the setpoint voltage and the actual voltage to produce a second combined result; and causing the second combined result to act upon the drive circuit of the piezo-actuator" in claim 7 that the prior art of record neither taught nor suggested.

### ***Response to Arguments***

5. Applicant's arguments filed on 5/23/05 have been fully considered but they are not persuasive. Applicant argues that although it may be possible, in principle, to *convert voltage to charge* at a known capacitance, such a conversion would encounter practical difficulties in the context of a piezo-actuator designed as an injector and situated in the area of the combustion chamber of the internal combustion engine. This is not persuasive because a voltage  $V$  emerging at capacitor's contacts is equivalent to the stored electrical charge  $Q$ , thereby making voltage and charge interchangeable. Therefore, Rueger et al anticipates claims 1-6 and 15-17.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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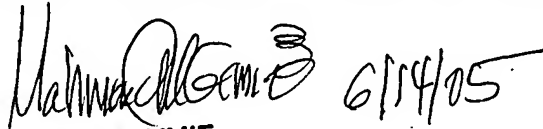
extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mahmoud Gimie whose telephone number is 571-272-4841. The examiner can normally be reached on Tuesday-Friday between 7 a.m. -3:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Yuen can be reached on 571-272-4856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MG

  
**MAHMOUD GIMIE**  
**PRIMARY EXAMINER**